IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

The State of Rajasthan. vs. Shobha Ram

D.B.Cri. Appeal No.272/1987

Under Section 378 (iii) & (i) Cr.P.C. against the judgment dated 15.01.87 passed by the Sessions Judge, Jodhpur, in Sessions Case No.89/1986.

Date of Judgment: 20th September, 2007.

PRESENT

HON'BLE MR.JUSTICE BHAGWATI PRASAD
HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI

Mr.JPS.Choudhary, Public Prosecutor.
Mr.P.R.Choudhary for the respondent/s.

BY THE COURT :(PER HON.MR.BHAGWATI PRASAD,J.)-

This appeal is filed by the State of Rajasthan being aggrieved by the decision of the learned Sessions Judge , Jodhpur, decided on 15.01.87 in Sessions Case No. 89/1986.

We have heard the appellant in the main case where Shobha Ram was an accused with other persons. That appeal has been decided by us today in State of Rajasthan vs. Sohan Ram &

Ors., D.B Cri. Appeal No.39/1987 decided on 20th September, 2007. The conviction of all the accused persons in that appeal has been maintained under section 304-II IPC. We feel that since the other accused have been held guilty under this section , therefore, the case of Shobha Ram cannot be re-opened all over again. His conviction under section 304-II/34 IPC is maintained. He has been let off on probation as being less than 21 years of age. The probation period has already come to an end. We do not think to unsettle the treatment given by the trial court and we do not feel persuaded to entertain the State appeal because in the main case we have held that the conviction under section 304-II IPC is sustainable as ordered by the trial court . The other part of the order is also maintained . Therefore, the State appeal is accordingly dismissed.

(MUNISHWAR NATH BHANDARI), J. **(BHAGWATI PRASAD), J.**

L.George